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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,560	02/19/2004	Christopher J. Manzini	017.2001	1713
49837	7590	03/16/2006	EXAMINER	
S2IPLAW, PLLC 300 MASSACHUSETTS AVENUE, NW SUITE 1101 WASHINGTON, DC 20001-2692			WALTERS, JOHN DANIEL	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/780,560

Applicant(s)

MANZINI, CHRISTOPHER J.

Examiner

John D. Walters

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/22/2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

Claims 1 – 65 have been examined.

#### *Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

- reference number 82 is not shown within the figures;
- reference number 84 is not shown within the figures.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid

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abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 7, 9, 10, 14, 15, 18, 23 – 30, 32 – 38, 40, 42, 43, 46, 48, 53 – 56, 58, 59, 61, and 63 – 65 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimon et al. (5,660,115). Shimon discloses vertically actuated rail guide wheels comprising:

- a support structure (Fig.6, item 112);
- one or more support legs (Fig. 6, item 126) having an upper and a lower end;
- said lower end having a flange (Fig. 9, bottom of item 126);
- a lift mechanism, i.e. a hydraulic system (Fig. 16, item 120);
- one or more rail wheels (Fig. 16, item 118) attached to said support beam;
- a load beam adapted to receive one or more support legs (Fig. 16, item 116);
- one ore more fit sleeves (Fig. 9, bottom of item 126);

- a locking mechanism comprising a pin and an aperture (Fig. 5, item 152 & column 8, lines 42 – 45);
- wherein said stabilizer support system is attached to a truck (Fig. 4);
- wherein said stabilizer support system is adapted to be detachable from said vehicle (column 5, lines 51 – 53).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 11, 12, 16, 19, 20, 31, 39, 41, 44, 45, 49, 57, 60, and 62 rejected under 35 U.S.C. 103(a) as being unpatentable over Shimon et al. (5,660,115). Shimon discloses vertically actuated rail guide wheels described above.

In regards to claims 8, 31, 39, and 41, Shimon does not disclose the use of a “channel tool” or a “coordinating channel”. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide a slot and “lift bar” mechanism, i.e. channel tool and channel, for manual raising of said system in order to increase, by leverage, the force an operator can apply.

In regards to claims 11, 44, and 57, Shimon does not configure his support structure in an A-frame configuration. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to configure a support structure in any

geometric manner which would allow for a pleasing visual connection when attached to a vehicle, i.e. blending in well with existing machinery.

In regards to claims 12 and 45, Shimon does not disclose the attachment of said support structure to a rail car. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to make use of the support structure of Shimon with any vehicle which would make use of rail lines, including a railcar. This would allow an operator to withdraw damaged rail wheels or engage undamaged rail wheels without physically removing said wheels from said railcar.

In regards to claims 16, 49, and 60, Shimon does not slidably connect said flange to said fit sleeve. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to permanently connect said flange and said fit sleeve, as in Shimon's disclosure, in order to provide fewer components and easier assembly of said system.

In regards to claims 19, 20, and 62, Shimon does not make use of wheels other than rail wheels. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to make use of any ground traversing element appropriate for the ground to be covered, i.e. rubber tires or tracks, in order to move in the most effective manner over said ground.

Claims 17, 21, 22, and 50 – 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimon et al. (5,660,115) as applied to claims 1 – 16, 18 – 20, 23 – 49, and 54 – 65 above, and further in view of Seifert (3,434,432). Shimon does not

disclose a second set of wheels. Seifert, however, discloses a convertible rail-highway vehicle comprising:

- a second set of rubber tires with a greater diameter than said one or more wheels (Fig. 1, item 2).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the second tires of Seifert with the stabilizer support system of Shimon in order to provide wheel sets which are capable of moving over both rail system and normal ground without needing to be changed or moved.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Masse (5,103,740) discloses a vehicle for road and rail operation;
- Hinwood (D413,290) discloses a rail-engaging wheel conversion unit;
- Fritel et al. (4,461,490) disclose a structural support for an outrigger;
- Chambers (2,965,046) discloses transportation equipment;
- Ackley (6,089,603) discloses a vehicle stabilization system;
- Johnson (3,716,252) discloses a dual position hydraulic outrigger assembly;
- Wappler (4,111,316) discloses a truck mounted hoist;
- Pinkston (5,387,071) discloses a rotatable recovery vehicle;
- Brueske (4,421,242) discloses a panel locator.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Walters whose telephone number is (571) 272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John D. Walters  
Examiner  
Art Unit 3618

JDW



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